IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 961 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NAYNABEN WD/O DEVENDRAKUMAR DHANESHWAR RAVAL

Versus

NATIONAL INSURANCE CO. LTD.

Appearance:

1. Civil Revision Application No. 961 of 2001

MR RJ GOSWAMI for Petitioner No. 1

DAKSHESH MEHTA for Respondent No. 1

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 18/09/2001

ORAL JUDGEMENT

1. The petitioner's husband was killed in a vehicular accident and, therefore, she had filed M.A.C.Petition No.71 of 1999 before the M.A.C.Tribunal, Ahmedabad (Rural), Auxiliary-III, Gandhinagar. The said

claim petition was settled in the Lok Adalat. An award was made in favour of the applicant on 12.8.2000. It appears that 40% of the amount was paid to the petitioner in cash. But, 60% of the amount was ordered to be invested in fixed deposit in the Bank. Thereafter, the petitioner made an application for withdrawal of Rs.1,02,700/-, which has been invested in the Bank, on the ground that her old mother was suffering from heart disease and had been admitted in the U.N.Mehta Institute of Cardiology and Research Centre and that she had to undergo an operation. However, the Tribunal rejected the application on the ground that 40% of the amount had already been paid to the applicant in cash and the remaining 60% of the amount was invested in FDR only a couple of months back.

2. The applicant, being aggrieved by the said order of the Tribunal, has filed the present civil revision application under Section 115 of the Civil Procedure Code.

3. Learned counsel for the petitioner has stated that the petitioner has one brother but, though he is employed, he is unable to obtain any funds for the treatment of his mother and under the circumstances and hence it is absolutely necessary for the petitioner to obtain the amount for the treatment of her mother. Under the circumstances, appropriate course would be to give liberty to the petitioner to make a fresh application before the Tribunal giving all the details including inability of her brother to arrange for any funds. If and when such an application is made and if the Tribunal is satisfied about the genuineness of the ground, the Tribunal shall pass appropriate order. With this observation present civil revision application is disposed of with no order as to costs. Rule is discharged. Direct service is permitted.

(M.C.Patel,J.)

(vipul)